IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

W.P.NOS. 24798, 24800, 24803. 24807 OF 2003

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W.P.NO.24798 OF 2003

Between:

Rama Shrimp Hatchery, represented by its Managing Partner, Ganta Raghu,,S/o. G.S.Ramachandra Rao, Aged about 31 years, Hindu, R/o.Gangaraju Nagar, Kakinada, E.G. District.

..... PETITIONER

AND

1. The A.P.E.D.C.Ltd., rep.by its Managing Director, 30-14-9,Sai Sakthi Bhavan, Opp: Swarasthi Park, Dabagardens, Viskhapatnam.
2 The Assistant Accounts officer, Electricity Revenue office, Samalkot, E.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction one in the nature of writ of Mandamus declaring the notice issued by the 2nd respondent Letter No.AAO/ERO/SLO/ JAO-2/U6 D.No.305, dated 6-10-2003 to the petitioner-unit for a service connection No.94, K.P.V.peta, U.Kothapalli Mandal, East Godavari District, directing the petitioner-unit to deposit the amount specified in the notice, without giving an opportunity to put forth the petitioner's case as illegal arbitrary and capricious and contrary to the terms and conditions of the A.P Electricity Act.

Counsel for the Petitioner: MR.E.V.V.S.RAVI KUMAR

Counsel for the Respondents: SMT.M.VINOBHA DEVI

WRIT PETITION NO : 24800 of 2003

Between:

Maruthi Acqua Technologies Pvt., Ltd., Represented by its Managing Director, Ganni Venkateswara Rao, S/o. G.V.V.S.Murthy, R/o.Vijaya Gardens, Kakinada, E.G.District.

..... PETITIONER

AND

1. The A.P.E.D.C.Ltd., rep. by its Managing Director, 30-14-9, Sai Sakthi Bhavan, Opp. Swarasthi Park, Dabagardens, Visakhapatnam.
2 The Assistant Accounts Officer, Electricity Revenue Office, Samalkot, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction one in the nature of Writ of Mandamus declaring the notice issued by the 2nd respondent Letter No.AAO/ERO/SLO/JAD-2/U6 D.No.305, dated 6-10-2003 to the petitioner-unit for a Service Connection No.106, K.P.V.Peta, U.Kothapalli Mandal, East Godavari District, directing the petitioner-unit to deposit the amount specified in the notice, without giving an opportunity to put forth the petitioner's case as illegal, arbitrary and capricious and contrary to the terms and conditions of the A.P.Electricity Act.

Counsel for the Petitioner: MR.E.V.V.S.RAVI KUMAR

Counsel for the Respondents: SMT.M.VINOBHA DEVI

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WRIT PETITION NO : 24803 of 2003

Between:

Rama Nauplie Centre, represented by its Proprietor, Gantu Raghu, S/o G.S.Ramachandra Rao, R/o Gangaraju Nagar, Kakinada, East Godavari District.

..... PETITIONER

AND

1. The A.P.E.D.C.Ltd., rep.by its Managing Director, 30-14-9, Sai Sakthi Bhavan,Opp: Swarasthi Park, Dabagardens, Visakhapatnam.
2 The Assistant Accounts Officer, Electricity Revenue Office, Samalkot, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or direction one in the nature of Writ of Mandamus declaring the notice issued by the 2nd respondent Letter No.AAO/ERO/SLO/JAO-2/U6 D.No.305, dated 6-10-2003 to the petitioner-unit for a Service Connection No.314, K.P.V.Peta, U.Kothapalli Mandal, East Godavari District, directing the petitioner-unit to deposit the amount specified in the notice, without giving an opportunity to put forth the petitioner's case as illegal, arbitrary and capricious and contrary to the terms and conditions of the A.P.Electricity Act.

Counsel for the Petitioner:MR.E.V.V.S.RAVI KUMAR

Counsel for the Respondents: MRS.M.VINOBHA DEVI

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WRIT PETITION NO : 24807 of 2003

Between:

Sri Bala Tripura Sundari Aqua Products Pvt. Ltd., Rep by Managing

Director, Balusu Suryanarayana Murthy S/o late Anandu 58 R/o

Sriramnagar, Kakinada East Godavari District

..... PETITIONER

AND

1 The A.P.E.D.C. Ltd., rep by Managing Director, 30-14-9, Sai Sakthi Bhavan,

Opp Swarasthi Park,Dabagardens, Visakhapatnam

2 The Assistant Accounts Officer, Electricity Revenue Officer, Samalkot, East Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction one in the nature of Writ of Mandamus declaring the notice issued by the 2nd respondent Letter No. AAO/ERO/SLO/JAO-2/U6 D. No. 305, dt 6-10-2003 to the petitioner-unit for a Service Connection No. 1047, Uppada, U. Kothapalli Mandal, East Godavari District, Directing the petitioner-unit to deposit the amount specified in the notice, without giving an opportunity to put forth the petitioner's case as illegal arbitrary and capricious and contrary to the terms and conditions of the A.P. Electricity Act

Counsel for the Petitioner: MR.E.V.V.S.RAVI KUMAR

Counsel for the Respondents: SMT.M.VINOBHA DEVI

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The Court made the following common order:

The petitioners in all the writ petitions, which are hatchery units seek to assail the impugned notice dated 6.10.2003, issued by the second respondent calling upon them to make payment towards the shortfall amount, within 15 days from the date of receipt of the notice.

Smt G. Ramalakshmi, learned counsel appearing for the petitioners strenuously contended that before demanding such amount there is neither any notice nor any enquiry. Even in regard to the arrears which are sought to be demanded, there is no specification of the period. She further contended that in the counter-affidavit filed on behalf of the respondents herein, there is a clear variation in regard to the period, for which they are sought to be demanded.

It is submitted by the learned counsel for the respondents that in pursuance of an inspection made earlier, it was found that there was an excess use of energy beyond the permitted load and therefore, the petitioners are liable for the payment of the demanded amount. He further submitted that having regard to the excess load used by the petitioners, the demand has been rightly made and there cannot be any dispute.

Having considered the submissions made and also on perusal of the material on record, it appears that the impugned notice dated 6.10.2003 is issued in pursuance of the inspection made on 26.06.2003. On the face of it, there is no prior show cause notice or any opportunity was given to the petitioners to explain as to why they should not be made liable for shortfall or the excess use of the energy. It is also submitted on behalf of the petitioners that they have filed representations before the second respondent, which are still pending. Having regard to such serious disputes, it would suffice in the interest of justice to direct the respondents to give a detailed fresh notice calling upon the petitioners to make payment thereof, for which the petitioners can file an explanation and the respondents can pass an order after considering the same and after giving an opportunity to the petitioners to explain the same. However, it is needless to mention that till the entire exercise is completed no coercive steps shall be taken for recovery of the amount.

With the above direction, all the writ petitions are disposed of. No order as to costs.

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20th July, 2004

sj/js

Copy to:

1. The A.P.E.D.C.Ltd., represented by its Managing Director, 30-14-9,Sai Sakthi, Bhavan, Opp: Swarasthi Park, Dabagardens, Viskhapatnam.

2. The Assistant Accounts officer, Electricity Revenue office, Samalkot, E.G.Dist.

3. Two C.D. copies.